IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL REVISION APPLICATION NO.390 OF 1997

Shri.Rajendrasingh Tarachand Dhanak ...Applicants

Versus

Shri.Pannalal Lajjaram Dhanak ...Respondent

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Mr.Rahul Walwekar i/b Mr.D.S.Sawant for Applicants.

None for Respondent.

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CORAM: A.M.KHANWILKAR, J.

MARCH 23, 2006.

P.C.

1. Heard Counsel for the Applicants. None appears for the Respondent though served.

2. The Respondent filed application for possession of the suit premises by invoking provisions of Section 13A(2) of the Bombay Rent Act on 11th July 1994. The Application as filed clearly makes reference to creation of license in favour of the Applicants by Agreement dated 16th November 1986, which was to expire on 15th October

1987. Nevertheless, the Applicants have continued to occupy the suit premises even thereafter.

3. The Trial Court, after considering the relevant materials on record, has proceeded to allow the said Application preferred by the Respondent by the impugned Judgment and Order dated 19th March 1997. The solitary question on which this Revision ought to succeed, as canvassed by the Applicants, is that the provisions of Section 13A(2) of the Act could not be invoked in the fact situation of the present case. That is so because the license in favour of the Applicants was created under Agreement dated 16th November 1986 whereas, the provisions of Section 13A(2) came into effect on 1st October 1987. The Division Bench of this Court in Para 17 of the unreported decision produced before me dated August 2, 2002 in case of **Shri Bhagwan Laxman Nunse & Anr. vs. Smt.Gangubai Nivrutti Jadhav in CRA No.210 of 1989** and group of other matters, had occasion to consider this very contention. The contention has been answered which supports the stand taken by the Applicants in the present case. On this ground, the Revision ought

to succeed by setting aside the impugned Judgment and Order, as the provisions of Section 13A(2) of the Act could not have been invoked in the fact situation of the present case.

4. Rule made absolute. No order as to costs.

A.M.KHANWILKAR, J.